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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

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JUN 05 2013

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BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

DOCKETED BY

DM

IN THE MATTER OF THE APPLICATION
OF DII-EMERALD SPRINGS, L.L.C. FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WASTEWATER
SERVICES.

DOCKET NO. WS-20794A-11-0140

IN THE MATTER OF THE APPLICATION
OF DII-EMERALD SPRINGS, L.L.C. FOR
APPROVAL OF RATES.

DOCKET NO. WS-20794A-11-0279

IN THE MATTER OF THE APPLICATION
OF DOYLE THOMPSON FOR APPROVAL
OF A CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE SEWER
SERVICES.

DOCKET NO. SW-20851A-12-0226

PROCEDURAL ORDER

BY THE COMMISSION:

On April 3, 2013, a Procedural Order was issued in this consolidated matter scheduling a hearing to commence on July 23, 2013, and establishing other procedural requirements and deadlines.

On May 1, 2013, DII-Emerald Springs, L.L.C. ("DII") filed a Motion Requesting Approval for Witnesses to Testify via Video Conferencing ("Motion").

On May 3, 2013, a Procedural Order was issued requiring DII, by May 17, 2013, to file an amendment to its Motion including specified information. The Procedural Order further directed each party to file any response to DII's Motion, as amended, by May 24, 2013.

On May 15, 2013, DII filed a document amending its Motion ("Amendment"). In the Amendment, DII explained that it desires to have Robert Watson, the former president of the Emerald Springs HOA Board, testify as to the relationship between the HOA and Doyle Thompson while Mr. Watson was HOA Board president, as well as the relationship between Mr. Watson and DII during that time. DII asserts that Mr. Watson was the individual dealing with Mr. Thompson on day-to-day issues and that the current HOA board members have no such experience, as they are new to the community. Additionally, DII asserts that Mr. Watson cannot be intimidated by the HOA Board

1 because he no longer has an interest in Emerald Springs. DII asserts that Mr. Watson will testify
2 from his office in Cornelius, North Carolina, and that coming to Phoenix would be a hardship for him
3 as a self-employed individual. DII proposed that Mr. Watson's testimony be provided either via
4 Skype or, if video transmission is not available, via telephone.

5 No party has filed a response to DII's Motion.

6 Because DII has established good cause to have Mr. Watson testify from his location in North
7 Carolina rather than in person, and no party has objected to having Mr. Watson do so, DII's Motion
8 to have Mr. Watson testify remotely will be granted. The Commission finds that it is reasonable and
9 appropriate to have Mr. Watson testify telephonically¹ and, further, that no party will be prejudiced
10 thereby.

11 IT IS THEREFORE ORDERED that **DII's Motion** to have Robert Watson testify remotely,
12 via **telephone**, for the hearing to commence on July 23, 2013, is **granted**.

13 IT IS FURTHER ORDERED that **DII shall arrange for Robert Watson to be available by**
14 **telephone at the appropriate time during the evidentiary hearing and to have Mr. Watson call the**
15 **Commission at the appropriate time, using a landline telephone,**² **the telephone number 1-800-689-**
16 **9374, and the passcode 415962.**

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
18 Communications) applies to this proceeding and shall remain in effect until the Commission's
19 Decision in this matter is final and non-appealable.

20 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
21 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

22 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
23 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
24 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
25 all hearings, procedural conferences, and Open Meetings for which the matter is scheduled for
26

27 ¹ After consultation with the Commission's IT Division, it was determined that because DII did not identify an
28 available commercial videoconferencing facility for Mr. Watson, telephonic participation would be preferable from a
technological standpoint.

² Mobile telephones do not provide audio of the quality needed for verbatim transcription of witness testimony.

1 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
2 Law Judge or Commission.

3 IT IS FURTHER ORDERED that any motion, other than a Motion to Intervene, that is filed
4 in this matter and that is not ruled upon within 20 calendar days of the filing date of the motion shall
5 be deemed denied.

6 IT IS FURTHER ORDERED that except as otherwise ordered, any response to a motion shall
7 be filed within five calendar days of the filing date of the motion

8 IT IS FURTHER ORDERED that except as otherwise ordered, any reply shall be filed within
9 five calendar days of the filing date of the response.

10 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
11 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
12 hearing.

13 DATED this 5th day of June, 2013.

14
15 
16 SARAH N. HARPRING
17 ADMINISTRATIVE LAW JUDGE

18 Copies of the foregoing mailed/delivered
19 this 5th day of June, 2013, to:

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